A.F.R.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CORAM : Hon'ble Shri Jagdish Bhalla, Ag. CJ. &
Hon'ble Shri Satish K. Agnihotri, J.

Writ Petition No. 3973 of 2005

JUDGMENT FOR CONSIDERATION

Sd/-
Acting Chief Justice

HON'BLE SHRI SATISH K. AGNIHOTRI, J. I agree

Sd/-
Satish K. Agnihotri
Judge

POST FOR PRONOUNCEMENT
OF THE JUDGMENT 19 /12/2007

Sd/-

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. C.J. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

Writ Petition No. 3973 of 2005

(Public Interest Litigation)

Petitioners

1. Om Shanti Samiti Sheorinarayan an association/society registered under the Chhattisgarh (M.P.) Societies Registrikaran Adhiniyam, 1973 vide registration no. 743 through its President/Secretary Subhash Chandra kesharwani, aged about 47 years S/o Shri Narayan Prasad Kesharwani R/o Sheorinarayan District Janjgir-Champa (Chhattisgarh)

2. Nagarik Sangharsh Morcha, Through : Conversor Rajesh Tiwari S/o Late Kumar Prasad Tiwari aged about 38 years, R/o Sadar Bazar Sheorinarayan, District Janjgir-Champa (Chhattisgarh)

3. Math Bachao Samiti, Through President Balaram Kesharwani S/o late Tiharu Ram Kesharwni, aged about 64 years, R/o Bombay Market, Sheorinarayan, District Janjgir-Champa (Chhattisgarh)

4. Merchant Chamber of commerce, Through Vice President, Virendra Kumar Agrawal S/o. Chhedi Lal Agrawal, aged about 41 years R/o Bombay Market, Sheorinarayan, District Janjgir-Champa (Chhattisgarh)

Versus

Respondents:

1. State of Chhattisgarh, Through the Chief Secretary, D.K.S. Bhawan, Mantralaya, Raipur (Chhattisgarh)

2. Collector, Bilaspur (Chhattisgarh).

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3. Registrar of Public Trusts (collector) District – Janjgir – Champa (Chhattisgarh)

4. Sub Divisional Officer, P.O. Janjgir, District Janjgir – Champa (Chhattisgarh)

5. Shri Sheorinarayan Math Mandir Nyas Post Sheorinarayan District Janjgir – Champa (Chhattisgarh) through the managing Trustee Ram Sundar Das.

Petition under Articles 226/227 of the Constitution of India

Present : Shri Prashant Mishra, counsel for the petitioners.

Shri Sumesh Bajaj, Government Advocate for the State/ respondents No. 1 to 4.

Shri H.B. Agrawal, Senior Advocate with Ms. Sangeeta Mishra, counsel for respondent No.5.

JUDGMENT

(Delivered on ___ December, 2007)

The following Judgment of the Court was delivered by **Hon'ble Jagdish Bhalla, Ag. C.J. :**

This Public Interest Litigation has been filed ***inter alia*** on the grounds of mismanagement, financial bungling and misuse of the properties of the famous shrine of Sheorinarayan Temple, Sheorinarayan, District Janjgir Champa by Shri Sheorinarayan Math Mandir Nyas - respondent No.5, a Trust under the Madhya Pradesh Public Trust Act, 1960, constituted by the order of the District Judge, Raipur dated 01.10.1986, passed in M.J.C. No.17/1960.

Public Interest Litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to

be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or a member of the public, who approaches the court is acting bonafide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases, with exemplary costs.

Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "politics interest litigation" or for moving the courts with oblique motive for personal gains. It should be properly regulated and should be averted. It should not be allowed to become a tool in unscrupulous hands to release vendetta and wreak vengeance as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of a knight errant or poke one's nose into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their

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personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bonafide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration.

The purpose of Public Interest Litigation is to wipe out tears of the poor and needy, suffering from violation of their fundamental rights and not for gaining any profit or for oblique considerations. It was an innovation essentially to safeguard and protect the human rights of those people who were unable to protect them. It is always incumbent upon a citizen who rushes the Court through Public Interest Litigation to do specific home work and research in respect of the subject on which he approaches the Court in stead of making bald allegations.

The petitioners who are claiming to be public spirited persons, socially conscious and of religious mind and sincerely believe in preservation of Rule of law, reside at Sheorinarayan for last 4-5 decades. (In stead of indicating that the members of the petitioners – organizations are local residents of Sheorinarayan, it has been indicated that the petitioners are local residents). It has been further indicated that a large number of complains were being made against the Math which resulted into removal of Mahant and his associates by an order of the Registrar (Ex-Officio Collector, Bilaspur) with a view to get an impartial Board of Trustees. In such circumstances, on an application, the learned District Judge, Raipur, by an order dated 01.10.1986 approved a scheme for the welfare and development of

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Sheorinarayan temple by constituting a Trust under Section 26 (2) of the Madhya Pradesh Public Trust Act, 1960. The object of the said religious and charitable Trust is to promote Hindu Religion and dignified up-keep of Shri Sheorinarayan temple and other temples attached to the Sheorinarayan Math according to the traditions of Ramanand Sampradaya. It was further provided that Raje Shri Mahant Vaishnav Das, Guru Shri Bajrang Das, existing Mahant and Managing Trustee of Sheorinarayan Math were allowed to be Mahant and Managing Trustee of the said Math and the Mahant and his successors shall have the right to nominate and appoint his successor in accordance with the tenets, practice and customs of Ramanandi Vaishnav Sampradaya. It was further provided that the Mahant and Sarvarakar may be removed from his office by a majority decision of the Board of Trustees if ; (a) he marries, (b) he ceases to belong to Ramanandi Sampradaya ; (c) he is convicted by a Competent Court of any offence involving moral turpitude. It was also provided that if the Mahant dies without nominating his successor or if he is removed from his office by the Board of trustees, the Board shall request the Mahants of the neighbouring Maths of Ramanandi Sampradaya to collect together and to suggest an appropriate person to be appointed as Mahant. On receipt of the suggestion, the Board may appoint such person to be the Mahant and Sarvarkar of the Sheorinarayan Math and Temple and thereafter he shall not only hold the office of the Math but shall also have all the rights and liabilities in accordance with this scheme. As far as the properties are concerned it was indicated that all the properties are absolutely vested in the deity of Sheorinarayan temple. The learned District Judge further provided for constitution of

the Board appointing nine persons including Mahant as trustees for the efficient management of the Math.

According to the petitioners, same Mahant was appointed as the Managing Trustee, against whom the complaints indicated hereinabove were filed. The conduct of the said Mahant has not only been castigated in judicial proceedings, but he was also held accused of marrying a widow against the tenets and practice of such Mahantship under Ramanandi Sampradaya. There are allegations against the members of the Bar who were appearing for either side including the Government Counsel and also the Collector as Registrar of the Trust that they all are the parties to the evil designs of the said Mahant by according approval to the scheme tailored by him, but also became Trustees of the Board. It has also been alleged that legal proceedings were successfully got polluted despite the honest efforts of the people and the devotees. It has been further alleged that 100 acres of land belonging to the Trust has been sold out for personal gains and all immoral and illegal works are being done under the garb of the Trust. The role of the State Officials has also been heavily criticized in this petition to the extent that no care has been taken to save the people of Sheorinarayan. From the perusal of the writ petition, we find that there is a judgment of First Appeal referred in the petition though not brought to our notice by the learned counsel for the petitioners. However, we find that various allegations have been made against all those who have been appointed as Chief Trustee, Trustees, Government Officials, except the Collector, Bilaspur and in the process had prayed for quashing of the appointment of the Board of Trustees dated 01.10.1986 and the order dated 01.10.1986 passed by the

District Judge, Raipur. It has been further prayed that strictures be passed against the Government Officials who are involved in the misdeed of the Trust and appoint a Impartial Commission/ Committee of individuals or retired Senior Bureaucrats including Judges to submit a report to the Court for further consideration and also a direction to the State to consider the process to bring such legislation in the line of the shrines at Thirupathi Thirumangla Devasthanam, Shri Mahakaleshwar Temple at Ujjain and Mata Vaishno Devi, Jammu. A direction has also been prayed for to be issued to the State Government to make a Master Plan of Sheorinarayan for due implementation and to notify the name Sheorinarayan in place of Bhogahapara and Mahant Para. Apart from the prayers mentioned hereinabove, the petitioners have also made some other prayers, but they have not been pressed by learned counsel for the petitioner during the course of argument.

Learned counsel for the petitioners submits that in the light of what has been indicated above, the writ petition be allowed. Learned counsel appearing for the petitioners could not explain the laches in filing the writ petition against the order dated 01.10.1986 of the District Judge, Raipur and further that why the appropriate remedy was not availed challenging the order of the District Judge, Raipur. Learned counsel for the petitioners has further failed to substantiate how there is mismanagement, financial bungling, misuse of the properties of the shrine etc.

We find that civil suits i.e. Civil Suit Nos. 81-A/2005, 7-A/2003, 172-A/2002, 342-A/2002 and 5-A/99 are still pending on behalf of the petitioners – organizations and others in the Civil Court. In such

were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. "litigation in the interest of the public".

78. While PIL initially was invoked mostly in cases connected with the relief to the people and the weaker sections of the society and in areas where there was violation of human rights under Article 21, but with the passage of time, petitions have been entertained in other spheres. Prof. S.B. Sathe has summarised the extent of the jurisdiction which has now been exercised in the following words:

"PIL may, therefore, be described as satisfying one or more of the following parameters. These are not exclusive but merely descriptive:

— Where the concerns underlying a petition are not individualist but are shared widely by a large number of people (bonded labour, undertrial prisoners, prison inmates).

— Where the affected persons belong to the disadvantaged sections of society (women, children, bonded labour, unorganised labour etc.).

— Where judicial law making is necessary to avoid exploitation (inter-country adoption, the education of the children of the prostitutes).

— Where judicial intervention is necessary for the protection of the sanctity of democratic institutions (independence of the judiciary, existence of grievances redressal forums).

— Where administrative decisions related to development are harmful to the environment and

circumstances, we find that under the garb of Public Interest Litigation the petitioners are espousing the cause of its members' personal interest litigation. Hon'ble Apex Court time and again has criticized such an action. In this context, the Hon'ble Apex Court in the matter of **Janata Dal Vs. H.S. Chowdhary and others – (1992) 4 SCC -305** has observed as under :

> " **109.** It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the Court for vindicating any personal grievances, deserves rejection at threshold."

The Hon'ble Apex Court in the matter of **Balco Employees' Union (Regd.) Vs. Union of India – (2002) 2 SCC -333** has observed as under :

> **77.** Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the Judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who

jeopardize people's right to natural resources such as air or water."

On the other hand, learned Senior Counsel appearing for the respondent No.5 vehemently opposes the submissions advanced by learned counsel for the petitioners and submits that the petitioners in the garb of public interest litigation has filed this petition which purely a personal or private interest litigation for some vested interest in removing the present trustees and management to save their own skin. He further submits that so far as the petitioners are concerned, they are already facing civil suits in the Court of Civil Judge, Class-II, Janjgir. Learned counsel in support of his arguments relied upon the decision of Hon'ble Apex Court in the matter of **R & M Trust Vs. Koramangala Residents Vigilance Group & others (2005) 3 SCC – 91,** relevant portion of which has been mentioned in para 4 of his application for dismissing the writ petition which is being adumbrated hereunder for ready reference :

> "4. That now the law is very clear in the matter of Public Interest Litigation, as held by Their Lordship's reported in 2005(3) S.C.C. Page 91, between R & M Trust versus Koramangala Residents Vigilance Group and others, here also lease given before 10 years was sought to be disturbed and referring articles 226 and 32 of Constitution of India it is held that maintainability and locus standi is a very relevant factor. The Hon'ble Court also observed that courts should entertain P.I.L. in very rare cases where public at large stand to suffer, this jurisdiction cannot be allowed to be invoked for the purpose of serving private ends and professional rivalry. Likewise delay was also taken as ground for dismissal of P.I.L.. In this case also the trust has been created vide order dated 1-10-1986, copy of which is filed as

Annexure G, is functioning continuously and without interruption, smoothly and with out complaint, complaint if any can be made to the Registrar, Public Trust, as per provisions of M.P. Public Trust Act. For this some complaint are being examined for which the matter is pending before First Additional District Judge, Bilaspur and according to section 26 & 27 of the M.P. Public Trust Act, the matter is being examined in detail by him for which the connected civil revisions are pending here to challenge the legality and validity of the orders passed in that case. The Annexure G was never challenged any where from the year 1986, therefore it cannot be challenged in this writ petition because it became final and binding on all, therefore also the petition is liable to be dismissed because it was subject matter of appeal, for which writ jurisdiction is not available, so far as the removal of trustee and appointing new trustee in place of dead trustee is concerned, the power is vested to Registrar, Public Trust only, therefore they can go to him, hence the petition is also liable to be dismissed on the ground of availability of alternative remedy.

In the light of the aforesaid discussion, we are of the considered opinion that the petition is neither maintainable as public interest litigation nor any interference is warranted on merit. Accordingly, the writ petition is dismissed.

Sd/-
Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

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